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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,528	12/22/2003	Hossein Eslambolchi	2003-0111	7337
26652	7590	02/06/2007		
AT&T CORP. ROOM 2A207 ONE AT&T WAY BEDMINSTER, NJ 07921			EXAMINER JOHNSON, JERROLD D	
			ART UNIT	PAPER NUMBER
			3728	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/06/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/743,528

Applicant(s)

ESLAMBOLCHI ET AL.

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Claim Rejections - 35 USC § 102

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mykleby US 4,029,206.

In the background of this patent reference, page 1, lines 45-55, as well as in col. 4, lines 49-53, Mykleby describes a prior art protective cover using rigid pieces of foam blocks constructed from Dow Ethafoam 220 mounted on a fabric backing (fiber material). The foam blocks are glued or sewn on the fabric. The end product is wrapped around a cable reel.

Claim Rejections - 35 USC § 103

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-7 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mykleby US 4,029,206 in view of Examiner Official Notice.

In the background of this patent reference, page 1, lines 45-55, as well as in col. 4, lines 49-53, Mykleby describes a prior art protective cover using rigid pieces of foam blocks constructed from Dow Ethafoam 220 mounted on a fabric backing (fiber

material). The foam blocks are glued or sewn on the fabric. The end product is wrapped around a cable reel.

It is essential that the recitations relied upon in these rejections is understood. Mykleby discloses in col. 1 lines 46-49, and in col. 4, lines 49-53 the following recitation of his knowledge of prior art devices:

"One newer type of protective material for cable generally comprises separate pieces of rigid foam plastic mounted on a fiber material which is wrapped around the reel. The material is then strapped in place."

"See FIG. 5 for a graphical presentation of the above data and a comparison with Dow Chemical Ethafoam 220 cable protective material (The Data for Ethafoam was taken from Dow Chemical Publication "Packaging with Ethafoam")."

Again, these are Mykleby's disclosures of his knowledge of prior art devices in this art. Hereinafter, these two recitations will be set forth as "MDKPAD."

The following sentence from col. 1, lines 49-54 represents Mykleby's opinions about the aforementioned prior art that he discloses:

"Although this protective material has been relatively successful, such a material is expensive and it is difficult to achieve a consistently satisfactory product because of hand operations required in gluing or sewing individual pieces of foam plastic together onto the fiber material."

This opinion sentence will hereinafter be set forth as "MO", for Mykleby's opinion.

The remainder of the Mykleby patent document is essentially the disclosure of his inventive concepts, hereinafter "MIC."

The Applicant in his arguments (in particular to the rejections on the method claims) has directed his attention to MIC, instead of MDKPAD. This confusion renders his arguments non-persuasive. If the Applicant believes that one of ordinary skill in the art, or the Examiner, are bound to Mykleby's opinions, or the inventive concepts that have arisen from his opinions of the prior art, MDKPAD, he has not made such a statement. In any event, even if the Applicant were of such an opinion, it would not be persuasive. The reference to Mykleby must be taken as a whole, i.e. no part of the reference may be ignored, but that understanding does not limit one of ordinary skill in the art from seeing the distinctness of the prior art disclosure, MDKPAD, the opinions about such prior art, MO, and the inventive concepts, MIC, set forth. Accordingly, it is reiterated that the portions of Mykleby are entirely the portions set forth above as MDKPAD.

These two short recitations of the prior art devices disclosed in Mykleby US 4,029,206, the aforementioned MDKPAD, do not include a detailed description of the two versions (the glued version and the sewn version) known to Mykleby. Accordingly, Mykleby does not disclose the specific configurations set forth in the claims.

However, the configurations that are broadly set forth in these claims (elongated member of flexible fabric) are all well known configurations of wrapping members in the packaging art and the Examiner takes Official Notice of this fact.

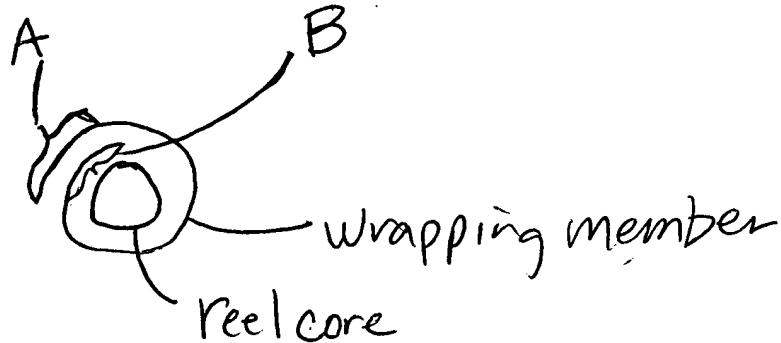
Re the claim limitations directed to the pockets, Mykleby, admittedly does not disclose pockets. However, the Examiner takes Official Notice that pockets are the common well known solution in this art to disposing rigid elements on a flexible backing.

See for instance the following patents that are set forth herein as extrinsic evidence: 4901464; D323065; D471011; 3,749,233; 5,427,239; D276,004; 4621486; 4852737; 4790475; D299620; and 3941246. Accordingly, it would have been obvious to one of ordinary skill in the art to use this common solution to secure the blocks of Mykleby to the fabric flexible wrapping member, as by doing so the blocks would be replaceably disposed on the wrapping member.

Re the newly added claim limitations drawn to the "overlap", despite the Applicants efforts to define this inventive concept in claim 1, the claim still does not define over the prior art. The expression "wherein pockets that are adjacent along the wrapping member, and the insulating members disposed in those pockets, overlap" is ambiguous. Exactly what do the pockets and the insulating members overlap? Each other? Themselves? The cable? The reel? Because of the ambiguity, the claim continues to read on the reel cover disclosed by Mykleby as modified by the notoriously old teachings of which the Examiner has taken official notice.

In the configuration shown below, there is overlap of "adjacent" pockets that are on different wraps. Additionally, there is overlap of pockets with respect to insulating members in another wrap. In other words, the pockets and insulating members in the area "A" of the wrapping member overlap the "adjacent" pockets and insulating members in area "B" of the wrapping member, and additionally overlap the reel and any cable disposed in the reel. Additionally, the "adjacent" pockets and insulating members in area "B" overlap the reel and any cable disposed in the reel. Accordingly, the claims as drafted are not allowable over the prior art of record.

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However, as was previously set forth in the previous Office Action, the configuration shown in Fig. 4, as *disclosed*, is patentable over the prior art of record. The Applicant is invited to contact the Examiner so as to reach an agreement on how that patentable subject matter needs to be set forth properly in a claim to be filed in a Request for Further Examination (RCE). The Examiner is willing to draft claim language that could be presented in an RCE for the Applicant's approval.

Re claim 3, nylon is commonly known in this art as a suitable material for wrapping applications, and accordingly it would be recognized by one of ordinary skill in the art as a suitable material for this application.

Re claim 6, abutting pockets is a very common arrangement, as is evidenced in the patents set forth above as extrinsic evidence.

Re claim 7, Mykleby, in his prior art disclosure, MDKPAD, does not disclose this arrangement, but this arrangement is the only arrangement which allows rigid elements disposed on a wrapping to be wrapped around a coil. Accordingly this arrangement would be the obvious arrangement.

Re claim 10, Mykleby shows this arrangement in the disclosure of his own invention, MIC, illustrated in Fig. 1. Accordingly, it would have been obvious to one of

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ordinary skill in the art to modify Mykleby's prior art disclosure, MDKPAD, with this teaching within the inventive concepts, MIC, of Mykleby so as to fully cover the cables disposed on the reel.

Re claim 12, pockets that allow for the removability of the items stored within them is also common arrangement, as are evidenced in the patents set forth above as extrinsic evidence.

Re claim 13, Mykleby, in his prior art disclosure, MDKPAD, discloses the cover being strapped in place, but does not disclose a strap attached to the wrapping member and extending the length of the wrapping member. Attached straps are common in wrappers as is evidenced in the extrinsic evidence set forth in the patents listed in claim 4. Accordingly, it would have been obvious to one of ordinary skill in the art to provide such an attached cinch strap so as to ensure that the straps are not lost.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mykleby US 4,029,206, in his prior art disclosure, MDKPAD, in view of Examiner Official Notice and further in view of either Stoll et al. US 6,935,502 or Heyda et al. US 5,165,543.

Mykleby does not disclose this arrangement in his recitation of the prior art cover.

Both Stoll and Heyda show how protective covers can be of sufficient width so as to be placed over the flanges, as is claimed.

Accordingly, it would have been obvious to one of ordinary skill in the art to make the protective cover of Mykleby of sufficient width so as to be placed over the flanges so that the cover is not in contact with the delicate cable.

Claims 9 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mykleby US 4,029,206 in view of Examiner Official Notice and further in view of Science Daily.

Mykleby US 4,029,206 does not disclose ceramic in the prior art device he discloses, the heretofore mentioned MDKPAD.

Ceramic based foams, such as those described in Science Daily, 18 May 2001, are known to have high insulating properties and low weight. Accordingly, one of ordinary skill in the art would recognize the suitability of ceramic based foams in this technological application and would be motivated to use them instead of the foams (Ethafoam 220) disclosed by Mykleby for the insulating properties and low weight of these ceramic based foams.

Re method claims 14-19, these are the obvious methods of using the prior art protective cover disclosed in Mykleby US 4,029,206, the heretofore mentioned MDKPAD, in view of Examiner Official Notice and further in view of Science Daily.

Again, claim 19, in the amended form is deficient in the same way as claim 1, which was set forth above.

Allowable Subject Matter

Again, the inventive concept shown in Fig. 4 is not disclosed in the prior art of record. Overlapping insulation panels, as is shown in US 6,298,626, are common. However, there is no art of record showing a protective cover for a reel having

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overlapping pockets each of which have an insulation block disposed therein in the manner shown in Fig. 4. Again, the Applicant is invited to contact the Examiner so as to reach an agreement on how that patentable subject matter needs to be set forth properly in a claim to be filed in a Request for Further Examination (RCE). The Examiner is willing to draft claim language that could be presented in an RCE for the Applicant's approval. Method claims that are drawn to the method of protecting an optical fiber cable with a structure consistent with what is disclosed in Fig. 4 are also allowable.

Drawings

The previous drawing objections are withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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